

## REMARKS

This is a full and timely response to the outstanding non-final Office Action mailed on March 18, 2003. Reconsideration and allowance of the application and presently pending claims are respectfully requested.

Upon entry of the amendments in this response, claims 1-48 are pending in the present application. In addition, claims 1, 2, 5, 6, 10, 11, 15, 16, 17, 19, 22, 25, 26, 29, 30, 34, 35, 39, 40-44, and 46-47 have been amended, as have FIG. 4 and select portions of the specification, as set forth above. More specifically, reference to element 34 of FIG. 2 has been added to the Detailed Description of the Preferred Embodiment section of the originally filed application. Similarly, a description of FIG. 4 has been added to the Detailed Description of the Preferred Embodiment as well. However, it is believed that no new matter has been added to the present application through any of these amendments. Furthermore, it is believed that the present application is in condition for allowance.

### I. Cosmetic Claim Amendments

Claims 1 and 25 have been amended by replacing “that includes” with “said configuration information comprising” into each claim. Likewise, claims 1 and 25 have been amended by inserting “initially” before “display” into each respective claim. Claims 1, 2, 6, 11, 16, 25, 26, 30, 35, and 40 have been amended by inserting “initial” in each claim between each instance of “selected” and “guide.” Claims 2, 6, 11, 17, 19, 22, 26, 30, 35, 41, 43, and 46 have been amended by inserting “selected” between each instance of “said” and “initial.” Claims 5, 10, 15, 29, 34, and 39 have been amended by replacing “overlayed” with “overlaid” in each respective claim. Claims 17, 19, 22, 41, 43, and 36 have been amended by replacing the word “arrangements” with “arrangement.” Claims 41, 43, and 46 have been amended to replace “said

default” with “a default.” Finally, the text, “selectable from said browse-by menu,” has been deleted from claims 42, 44, and 47. Applicant submits that these amendments are truly cosmetic and are being made for clarification purposes only and not for patentability of the claims.

II. U.S. Patent No. 5,850,218 to LaJoie et al. Fails to Disclose the Patentably Distinct Elements of Claims 1-18.

The Office Action rejected claims 1-18 under 35 U.S.C. §102(b) as being anticipated by United States Patent No. 5,850,218 to LaJoie et al. (“the ‘218 patent”). However, “[a]nticipation under 35 U.S.C. § 102 requires that a single prior art reference disclose *each and every limitation of the claimed invention.*” Moba, B.V. v. Diamond Automation, Inc., 2003 U.S. App. LEXIS 6285 (Fed. Cir. 2003) (emphasis added) (citing Electro Med. Sys. S.A. v. Cooper Life Sci., 34 F.3d 1048, 1052 (Fed. Cir. 1994)).

Independent claim 1 has been amended to clarify that the present system involves a selection indication that denotes one of the initial guide arrangements as a selected initial guide arrangement. In contrast, the ‘218 patent does not disclose a system involving “a selection indication that denotes one of said plurality of initial guide arrangements as a selected initial guide arrangement” such that the device initially displays the “program information according to said selected initial guide arrangement,” as recited in amended claim 1.

Lines 64-2 of columns 26-27 of the ‘218 patent were cited against claim 1 for the proposition that there is a “default theme ... that is used until the user selects another from the list with a selection indicator that denotes a particular selected arrangement (See Figure 20).” Office Action at 3. However, this cited text does not disclose a guide arrangement that is initially displayed with program information according to that selected guide. Instead, it appears from this text that a user is able to move from one theme entry to another in the default theme

arrangement, but it also appears that the user will receive the default theme again upon a subsequent theme mode display. Indeed, this text includes no reference to any “selection indication denot[ing an] initial guide arrangement[] as a selected initial guide arrangement,” as recited in claim 1. Thus, for at least these reasons, independent claim 1 is allowable over the ‘218 patent.

In addition, because independent claim 1 is allowable, dependent claims 2-18, which depend on independent claim 1, are allowable as a matter of law for at least the reason that they each contain all features and elements of the corresponding independent claim 1. See Minnesota Mining and Manufacturing Co. v. Chemque, Inc., 303 F.3d 1294, 1299 (Fed. Cir. 2002).

Claim 5 is also allowable over the ‘218 patent for at least the reason that it comprises a processor that is “responsive to a subsequent user input to display a subsequent guide arrangement with a menu of ordering formats selectable by a user overlaid on said channel portion of said subsequent guide arrangement,” as recited in claim 5. By contrast, the ‘218 patent fails to disclose this feature. See ‘218 patent: FIGS. 16 & 20-22. In fact, the ‘218 patent makes no teaching or suggestion in regard to overlaying a menu of ordering formats on the channel portion of the guide. FIGS. 20 and 22 of the ‘218 patent, as referenced in the Office Action, fail to disclose the recited feature of claim 5 that is set forth herein. Thus, claim 5 is allowable this additional reason.

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Dependent claim 6 is also allowable over the ‘218 patent. The ‘218 patent does not disclose a selected initial guide arrangement that displays “a first alphabetical theme in a theme portion of said selected initial guide arrangement and a plurality of future programs in a main program display portion of said selected initial guide arrangement corresponding to said first alphabetical theme,” as recited in claim 6. As shown in FIG. 20 of the ‘218 patent, the first

alphabetical theme listed (“Movies”) is not the displayed theme, and the programs listed therein do not correspond to that first alphabetical theme. Thus, for at least this reason claim 6 is allowable over the ‘218 patent.

Claim 10 is also allowable for at least the reason the ‘218 patent fails to disclose the patentable features of claim 10. The ‘218 patent fails to disclose a processor that is “responsive to a subsequent user input to display a subsequent guide arrangement with a menu of ordering formats selectable by a user overlaid on said channel portion of said guide arrangement,” as recited in claim 10. In fact, the ‘218 patent makes no mention of overlaying any menu on the channel portion of the guide. See ‘218 patent: FIG. 16. Moreover, FIG. 21 of the ‘218 patent, as referenced by the Office Action, does not disclose this claimed feature, as no menu of ordering formats is overlaid on a channel portion of the guide. Thus, for at least this reason dependent claim 10 is allowable over the ‘218 patent.

Claim 11 is also allowable over the ‘218 patent because the ‘218 patent does not disclose a selected initial guide arrangement that displays “a first alphabetical category in a title portion of said selected initial guide arrangement and an alphabetical listing by time of a plurality of programs ... corresponding to said first alphabetical category,” as recited in claim 11. FIG. 22 of the ‘218 patent does not show that the first alphabetical category (“A”) is displayed in the title portion of the guide with programs also shown corresponding to that first alphabetical format. Thus, for at least this reason, claim 11 is allowable over the ‘218 patent.

Claim 15 is also allowable over the ‘218 patent for at least the reason that the ‘218 patent fails to disclose a processor that is “responsive to a subsequent user input to display a subsequent guide arrangement with a menu of ordering formats selectable by a user overlaid on said channel portion of said subsequent guide arrangement,” as recited in claim 15. More specifically, the

'218 patent does not disclose overlaying any such menu on the guide, whether on the channel portion or otherwise. See '218 patent: FIGS. 16 & 20-22. Likewise, FIGS. 20-22 of the '218 patent, as referenced by the Office Action, do not disclose this claimed feature, as no menu of ordering formats is overlaid on a channel portion of the guide. Thus, for at least this reason, dependent claim 15 is allowable over the '218 patent.

### III. The '218 Patent Fails to Disclose the Patentably Distinct Elements of Claims 25-42

The Office Action rejected claims 25-42 under 35 U.S.C. §102(b) as being anticipated by the '218 patent. However, "[a]nticipation under 35 U.S.C. § 102 requires that a single prior art reference disclose *each and every limitation of the claimed invention*." Moba, B.V. v. Diamond Automation, Inc., 2003 U.S. App. LEXIS 6285 (Fed. Cir. 2003) (emphasis added) (citing Electro Med. Sys. S.A. v. Cooper Life Sci., 34 F.3d 1048, 1052 (Fed. Cir. 1994)).

Independent claim 25 has been amended to clarify that the present method involves "a selection indication that denotes one of said plurality of initial guide arrangements as a selected initial guide arrangement." In contrast, the '218 patent does not disclose this method. Specifically, the '218 patent fails to disclose "a selection indication that denotes one of said plurality of initial guide arrangements as a selected initial guide arrangement" such that the device initially displays "program information according to [the] selected initial guide arrangement," as recited in claim 25.

Lines 64-2 of columns 26-27 of the '218 patent were cited against claim 25 for the proposition that there is a "default theme ... that is used until the user selects another from the list with a selection indicator that denotes a particular selected arrangement (See Figure 20)." Office Action at 3. However, this cited text does not disclose a guide arrangement that is initially

displayed with program information according to that selected guide. Instead, it appears from this text that a user is able to move from one theme entry to another in the default theme arrangement, but it also appears that the user will receive the default theme again upon a subsequent theme mode display. Indeed, this text includes no reference to any “selection indication denot[ing an] initial guide arrangement[] as a selected initial guide arrangement,” as recited in claim 25. Thus, for at least this reason amended claim 25 is allowable over the ‘218 patent.

In addition, because independent claim 25 is allowable, dependent claims 26-42, which depend on independent claim 25, are allowable as a matter of law for at least the reason that they each contain all features and elements of the corresponding independent claim 25. See Minnesota Mining and Manufacturing Co. v. Chemque, Inc., 303 F.3d 1294, 1299 (Fed. Cir. 2002).

Claim 29 is also allowable over the ‘218 patent for at least the reason that the ‘218 patent fails to disclose “causing a processor to be further responsive to a subsequent user input to display a subsequent guide arrangement with a menu of ordering formats selectable by a user overlaid on said channel portion of the subsequent guide arrangement,” as recited in claim 29. See e.g., ‘218 patent: FIGS. 16 & 20-22. In fact, the ‘218 patent makes no teaching or suggestion in regard to overlaying a menu of ordering formats on the channel portion of the guide. FIGS. 20 and 22 of the ‘218 patent, as referenced in the Office Action fail to disclose the recited feature of claim 29 that is set forth herein. Thus, for at least this reason claim 29 is allowable over the ‘218 patent.

Claim 30 is also allowable over the ‘218 patent because the ‘218 patent does not disclose a selected initial guide arrangement that displays “a first alphabetical theme in a theme portion of said selected initial guide arrangement and a plurality of future programs in a main program

display portion of said selected initial guide arrangement corresponding to said first alphabetical theme,” as recited in claim 30. FIGS. 20-22 of the ‘218 patent do not disclose displaying the first alphabetical theme (“Movies”) in the theme portion of the guide as well as programs corresponding to that first alphabetical theme. Thus, for at least this reason claim 30 is allowable over the ‘218 patent.

Claim 34 is also allowable over the ‘218 patent for at least the reason that the ‘218 patent fails to disclose a processor that “display[s] a subsequent guide arrangement with a menu of ordering formats selectable by a user overlaid on said channel portion of the subsequent guide arrangement,” as recited in claim 34. More specifically, the ‘218 patent does not disclose overlaying any such menu on the guide, whether on the channel portion or otherwise. See ‘218 patent: FIGS. 16 & 20-22. Moreover, FIG. 21 of the ‘218 patent, as referenced by the Office Action, does not disclose this claimed feature, as no menu of ordering formats is overlaid on a channel portion of the guide. Thus for at least this reason claim 34 is allowable over the ‘218 patent.

Claim 35 is also allowable over the ‘218 patent because the ‘218 patent does not disclose a selected initial guide arrangement that displays “a first alphabetical category in a title portion of said selected initial guide arrangement and an alphabetical listing by time of a plurality of programs ... corresponding to the first alphabetical category,” as recited in claim 35. FIG. 22 of the ‘218 patent does not disclose that the first alphabetical category (“A”) is displayed in the title portion of the guide with an alphabetical listing by time of programs displayed in accordance with the first alphabetical category. For at least this reason claim 35 is allowable over the ‘218 patent.

Claim 39 is also allowable over the '218 patent because the '218 patent fails to disclose "causing a processor to be further responsive to a subsequent user input to display a subsequent guide arrangement with a menu of ordering formats selectable by a user overlaid on said channel portion of the subsequent guide arrangement," as recited in claim 39. In fact, the '218 patent does not disclose overlaying any such menu on the guide, whether on the channel portion or otherwise. See '218 patent: FIG. 16 & 20-22. Moreover, FIGS. 20-22 of the '218 patent, as referenced by the Office Action, do not disclose this claimed feature, as no menu of ordering formats is overlaid on a channel portion of the guide. Thus, for at least this reason claim 39 is allowable over the '218 patent.

IV. The Combination of the '218 Patent and U.S. Patent No. 5,808,608 to Young et al. Fails to Render Claims 19-24 Unpatentable.

Claims 19-24 were rejected in the Office Action under 35 USC §103(a) as being unpatentable over the '218 patent in view of United States Patent No. 5,808,608 to Young et al. However, claims 19-24 each depend from independent claim 1, which is allowable for the reasons discussed above. Therefore, because independent claim 1 is allowable, dependent claims 19-24, which depend on independent claim 1, are allowable as a matter of law for at least the reason that they contain all features and elements of the corresponding independent claim 1. See Minnesota Mining and Manufacturing Co. v. Chemque, Inc., 303 F.3d 1294, 1299 (Fed. Cir. 2002).

V. The Combination of the '218 Patent and U.S. Patent No. 5,808,608 to Young et al. Fails to Render Claims 43-48 Unpatentable.

Claims 43-48 were rejected in the Office Action under 35 USC §103(a) as being unpatentable over the '218 patent in view of United States Patent No. 5,808,608 to Young et al. However, claims 43-48 each depend from independent claim 25, which is allowable for the

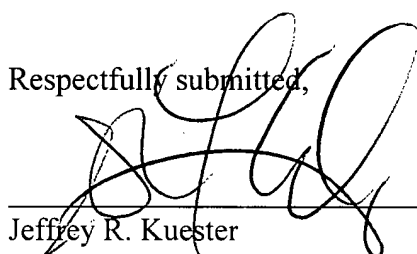


reasons discussed above. Therefore, because independent claim 25 is allowable, dependent claims 43-48, which depend on independent claim 25, are allowable as a matter of law for at least the reason that they contain all features and elements of the corresponding independent claim 25. See Minnesota Mining and Manufacturing Co. v. Chemque, Inc., 303 F.3d 1294, 1299 (Fed. Cir. 2002).

### **CONCLUSION**

In light of the foregoing amendments and for at least the reasons set forth above, Applicant respectfully submits that all rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims 1-48 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,



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